

## Message Text

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ORIGIN TRSE-00

INFO OCT-01 EUR-12 ISO-00 EB-07 ITC-01 STR-04 COME-00  
L-03 H-02 CIAE-00 INR-07 NSAE-00 AGRE-00 INT-05  
/042 R

DRAFTED BY TREAS:LPOTTS:JH  
APPROVED BY EB/OT/STA:JSSPIRO  
EB/OT/STA:CHBLUM  
STR:HLAWRENCE (INFO)  
EUR/CE:JHURLEY  
-----052071 240202Z /61  
R 230251Z JUL 77  
FM SECSTATE WASHDC  
TO AMEMBASSY VIENNA

UNCLAS STATE 172789

E.O. 11652: N/A

TAGS: ETRD, AU

SUBJECT: ANTIDUMPING PROCEEDINGS -- RAILWAY TRACK  
MAINTENANCE

REF: STATE 153695

1. FOR POST'S INFORMATION, THERE FOLLOWS TEXT OF TREASURY  
SECRETARY BLUMENTHAL'S RESPONSE TO AIDE MEMOIRE GIVEN TO  
HIM IN FRANKFURT BY FIN MIN ANDROSCH. ORIGINAL BEING

FORWARDED TO EMBASSY FOR TRANSMITTAL TO ANDROSCH. TREASURY  
WILL PROVIDE A COPY TO AUSTRIAN EMBASSY IN WASHINGTON.  
(BEGIN TEXT):

DEAR MR. MINISTER:

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I HAVE REVIEWED YOUR JUNE 23, 1977 AIDE MEMOIRE ON  
THE UNITED STATES TREASURY DEPARTMENT'S ANTIDUMPING  
INVESTIGATION OF RAILWAY TRACK MAINTENANCE EQUIPMENT  
FROM AUSTRIA, AND I AM PLEASED TO RESPOND TO YOUR  
INQUIRY.

THE EARLIER TREASURY INVESTIGATION OF RAILWAY TRACK

MAINTENANCE IMPORTS FROM AUSTRIA, TO WHICH YOU REFER IN

THE AIDE MEMOIRE, WAS DISCONTINUED IN MARCH OF 1972 AFTER WE RECEIVED PRICE ASSURANCES FROM PLASSER AND THEURER, THE AUSTRIAN EXPORTER, THAT THE EXPORTS WOULD BE SOLD IN THE UNITED STATES AT FAIR VALUE. IN GOOD FAITH WE RELIED ON THE PLASSER AND THEURER PRICE ASSURANCES UNTIL LATE LAST YEAR WHEN WE RECEIVED INFORMATION FROM TWO U.S. COMPANIES THAT THE MERCHANDISE FROM AUSTRIA WAS AGAIN BEING SOLD AT LESS THAN FAIR VALUE. BOTH COMPANIES ALLEGED THAT BALLAST REGULATORS -- GRAVEL PLOUGHS -- WERE BEING DUMPED IN THE U.S. MARKET BY AUSTRIAN EXPORTERS.

IN RESPONSE TO THE INFORMATION FURNISHED BY ATTORNEYS REPRESENTING U.S. MANUFACTURERS OF RAILWAY TRACK MAINTENANCE EQUIPMENT, ON NOVEMBER 1, 1976, THE TREASURY DEPARTMENT FORMALLY REOPENED ITS INVESTIGATION, AND GRAVEL PLOUGHS WILL BE INCLUDED IN THE INVESTIGATION.

IN CONNECTION WITH THE INVESTIGATION, A U.S. CUSTOMS SERVICE REPRESENTATIVE ATTEMPTED TO MEET WITH PLASSER AND THEURER IN EARLY JANUARY 1977. WE WERE INFORMED THAT AUSTRIAN GOVERNMENT OFFICIALS HAD INTERVENED AND THE MEETING WITH THE CUSTOMS REPRESENTATIVE WAS NOT HELD UNTIL FEBRUARY 10. THUS, OUR INVESTIGATION WAS DELAYED

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FOR ABOUT ONE MONTH, AND WHEN THE STATUTORY DEADLINE FOR MAKING A TENTATIVE DECISION ARRIVED, WE HAD NOT YET RECEIVED VERIFIED INFORMATION FROM PLASSER AND THEURER. UNDER U.S. LAW, TREASURY OFFICIALS HAD NO RECOURSE BUT TO BASE THE TENTATIVE DETERMINATION UPON INFORMATION FROM ALTERNATIVE SOURCES.

YOU SHOULD KNOW THAT BEGINNING IN THE FALL OF 1976 TREASURY OFFICIALS NOTIFIED BOTH PLASSER AND THEURER ATTORNEYS AND AUSTRIAN EMBASSY OFFICIALS IN WASHINGTON ON SEVERAL OCCASIONS THAT IF WE DIDN'T RECEIVE VERIFIED DATA IN TIME, THE DETERMINATION WOULD HAVE TO BE MADE WITH THE BEST INFORMATION AVAILABLE. THIS PROCEDURE IS FULLY CONSISTENT WITH ARTICLE 6(I) OF THE GATT ANTI-DUMPING CODE, AND ON MAY 10, 1977, WE ISSUED A "WITHHOLDING OF APPRAISEMENT NOTICE" TENTATIVELY FINDING THAT SALES AT DUMPING MARGINS HAD OCCURRED.

I WOULD LIKE TO POINT OUT THAT AT THE TIME OF THE WITHHOLDING OF APPRAISEMENT, NO "DUMPING RATE" WAS DECLARED. ANTIDUMPING DUTIES ARE NEVER COLLECTED UNLESS AND UNTIL A "FINDING OF DUMPING" IS ISSUED FOLLOWING A FINAL

DETERMINATION OF SALES AT LESS THAN FAIR VALUE AND  
INJURY. NEITHER OF THESE ACTIONS HAS YET OCCURRED.

RATHER, WHEN APPRAISEMENT IS WITHHELD, ADEQUATE SECURITY  
MUST BE POSTED TO ENSURE THAT ANY FUTURE LIABILITY FOR  
DUTIES CAN BE MET. THIS IS A MEASURE REQUIRED BY OUR  
LAW AND SANCTIONED BY INTERNATIONAL AGREEMENT.

SINCE THE MAY 10 WITHHOLDING OF APPRAISEMENT IN THIS  
CASE, ADDITIONAL INFORMATION HAS BEEN PRESENTED TO THE  
TREASURY BY THE U.S. COMPANIES AND BY PLASSER AND  
THEURER. ALL PARTIES PARTICIPATED IN A HEARING BEFORE  
THE TREASURY ON JUNE 27.

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YOU HAVE MY ASSURANCES THAT ALL INFORMATION AND VIEWS  
PRESENTED WILL BE FULLY CONSIDERED BY THE TREASURY  
BEFORE PROCEEDING TO A FINAL DETERMINATION IN THIS  
CASE.

SINCERLY,

W. MICHAEL BLUMENTHAL DATED 7/21/77  
END TEXT.

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01-Jan-1994 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** TEXT, EQUIPMENT, INVESTIGATIONS, ANTIDUMPING LAW (TRADE), DIPLOMATIC NOTES, RAILROADS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Sent Date:** 23-Jul-1977 12:00:00 am  
**Decaption Date:** 01-Jan-1960 12:00:00 am  
**Decaption Note:**  
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**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
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**Disposition History:** n/a  
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**Document Source:** CORE  
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**Drafter:** LPOTTS:JH  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
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**Office:** ORIGIN TRSE  
**Original Classification:** UNCLASSIFIED  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
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**Previous Classification:** n/a  
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**Reference:** 77 STATE 153695  
**Retention:** 0  
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**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 1767311  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** ANTIDUMPING PROCEEDINGS -- RAILWAY TRACK MAINTENANCE  
**TAGS:** ETRD, AU, US  
**To:** VIENNA  
**Type:** TE  
**vdkgvwkey:** odb://SAS/SAS.dbo.SAS\_Docs/d2ccf264-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
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22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009